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P.O. Box 1450
Alexandria, VA 22313-1450

On April 27, 2005

TOWNSEND and TOWNSEND and CREW LLP

By: Jo Ann Honcik Dallara
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PATENT
Atty. Docket No.: 02307E-099810US
Client Reference No.: 1999-373-2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Gwynne Attarian, et al.

Application No.: 09/747,385

Filed: December 22, 2000

For: FUSOBACTERIUM NUCLEIC ACIDS,
PLASMIDS AND VECTORS

Examiner: D. Lambertson

Art Unit: 1636

**APPLICATION FOR PATENT TERM
ADJUSTMENT UNDER
37 C.F.R. § 1.705(b)**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants are in receipt of the *Notice of Allowance and Determination of Patent Term Adjustment under 35 U.S.C. 154(b)* mailed January 27, 2005. The Patent Office has determined that the Patent Term Adjustment to date is 0 days. In accordance with 37 C.F.R. § 1.705(b), the Applicants respectfully request reconsideration of the patent term adjustment.

Statement Of Facts - 37 C.F.R. § 1.705(b)(2)

(i) **Correct Patent Term Adjustment and Basis Under 37 C.F.R. §1.702**

The Applicants respectfully submit that the correct patent term adjustment is 161 days. This adjustment is due, in part, to the failure of the U.S. Patent and Trademark Office to act within the following time frames:

1. Mailing of the second Office Action (Paper 15) later than four months after the filing of a response to an Office Communication, pursuant to 37 C.F.R. §1.703(a)(2); and

2. Mailing of the Notice of Allowance later than four months after the filing of a response to an Office Action, pursuant to 37 C.F.R. §1.703(a)(2).

(ii) Relevant Dates for which an Adjustment is Sought under 37 C.F.R. §1.703(a) through (e)

Action	Date Filed / Mailed	§§1.703(a)-(e) Date	§§1.703(a)-(e) Period	Days Added to PTA
Response to Office Communication	12/02/2002			
		04/02/2003	Four months to action	
Office Action (Paper 15)	10/07/2003			188
Response to Office Action (Paper 15)	04/12/2004			
		08/12/2004	Four months to action	
Notice of Allowance	01/27/2005			168
TOTAL DAYS ADDED TO PATENT TERM				356

(iii) Terminal Disclaimer

This application is not subject to a terminal disclaimer.

(iv) Failure to Engage in Reasonable Efforts to Conclude Processing or Examination under 37 C.F.R. §1.704

An Office Action was mailed on September 13, 2001. A response to the *Office Action* was received by the U.S. Patent Office on March 22, 2001, 99 days after three months from the mailing of the *Office Action*.

An Office Action was mailed on October 7, 2003. A response to the *Office Action* was received by the U.S. Patent Office on April 12, 2004, 96 days after three months from the mailing of the *Office Action*.

These delays result in a reduction of period of adjustment of the patent term of 195 days, pursuant to 37 C.F.R. §1.704.

CONCLUSION

The Applicants respectfully request reconsideration of the patent term adjustment of 0 days indicated on the *Determination of Patent Term Adjustment under 35 U.S.C. 1.54(b)* to 161 days, as discussed above.

The Commissioner is hereby authorized to charge the fee of \$200.00 for filing an Application for Patent Term Adjustment as set forth in § 1.18(e), and any other fees which may be required, or credit any overpayment, to Deposit Account No. 20-1430.

Respectfully submitted,



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